

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 15775 of 2004

Between:

- Sri S.Madhu, s/o S.Lingaiah, 45 years, Business,
- r/o B.N.Reddy Nagar, L.B.Nagar, R.R.District,
Hyderabad.

..... PETITIONER

AND

- 1 The Joint Collector, R.R.District at Saifabad, Hyderabad.
- 2 The Mandal Revenue Officer, Ibrahimpatnam, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent No.2 for seizure of lorry and respondent 1 for trial U/s.6-A of E.C.Act basing on the rice which is not covered under control order or not having jurisdiction is illegal and arbitrary

Counsel for the Petitioner : MR.BOLLAM LINGAIAH YADAV

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15775 of 2004

ORAL ORDER :

The petitioner claims to be the owner of the lorry bearing No.AAT 4487. He states that the same is being used for transporting goods on hire basis and on 04-08-2004 while the lorry was engaged on hire and was transporting the rice, the lorry together with 150 quintals of rice was seized by the Mandal Revenue Officer, Ibrahimpatnam alleging that the rice being transported in the vehicle was meant for SGRY/ISL workers. In pursuance of the said seizure, the Mandal Revenue Officer, Ibrahimpatnam submitted a report under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') before the first respondent – Joint Collector, R.R. District at Saifabad and the enquiry is pending. The petitioner having come to know about the said seizure, filed an application before the 1st respondent seeking release of the vehicle in question stating that he is no way connected with any alleged offence on the basis of which the seizure was effected. The first respondent by order dated 25-08-2004 directed release of the lorry subject to furnishing Bank guarantee of Rs.1,20,000/- towards the value of the seized stock. Aggrieved by the same, this writ petition has been filed.

On behalf of the respondents, a counter-affidavit has been filed by the Joint Collector, R.R. District stating that the lorry driver was transporting the rice belonging to the Government and that from the sworn statement of the lorry driver it was found that the lorry was owned by one Serigudem Bhaskar Reddy and that on 4-8-2004 he has loaded 300 bags of rice from Government Civil Supplies Godown, Ibrahimpatnam for transporting the same to Sagar Ring Road, Pochamma Temple. It is further stated that the Mandal Revenue Officer effected seizure following due process of law and since the vehicle is involved in illegal transportation of rice from MLS Point Godown, Ibrahimpatnam, the same is liable for confiscation and therefore the Joint

Collector has rightly directed release of the lorry in question subject to furnishing Bank guarantee to the value of the seized stock.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned Counsel for the petitioner submits that by virtue of the notification dated 15-02-2002 issued by the Government of India and the corresponding Memo dated 27-03-2002 issued by the State Government, there are no restrictions as to stock or movement of the paddy and rice in the State. He further submits that on the basis of the said memos, the Commissioner of Civil Supplies also issued proceedings dated 12-08-2002 stating that even where any rice miller is found to have indulged in purchasing rice meant for 'food for work', the only course open is to initiate proceedings under the Code of Criminal Procedure and therefore the 1st respondent is not justified in directing release subject to furnishing Bank guarantee to the value of the seized stock.

It is to be noted that this Court while considering an identical issue in SHEELA SRINIVAS v. DISTRICT COLLECTOR, KARIMNAGAR AND ANOTHER^[1] having taken into consideration the aforesaid orders issued by the Union of India and the State Government held that the seizure of paddy and rice on the allegation that the said stock meant for 'food for work' was diverted to mill of the petitioner, was unsustainable. It was also held that even assuming that the petitioner has purchased or has come into possession of rice meant for 'food for work, the only action to be taken is to initiate proceedings under the Code of Criminal Procedure.

In the case on hand, the seizure appears to have been effected only on the allegation of diversion of rice meant for 'food for work'. It is also relevant to note that no other material has been placed before this Court to show that the petitioner who is the owner of the lorry had any

knowledge of the alleged offence.

At any rate, since the enquiry under Section 6-A of the Act is pending, it is for the first respondent to conduct necessary enquiry and to pass appropriate orders in accordance with law if the petitioner's involvement is established. However, pending such enquiry, having regard to the facts and circumstances of the case, I am of the view that the 1st respondent is not justified in directing the petitioner to furnish Bank guarantee to the entire value of the seized stock. Instead, the ends of justice would be met if the vehicle in question is released on the petitioner furnishing third party security to the value of the seized stock in addition to the undertaking that he will not alienate the lorry and produce the same as and when required.

Accordingly, the writ petition is disposed of with a direction to the respondents to release the lorry in question on the petitioner furnishing third party security to the value of the seized stock to the satisfaction of the first respondent – Joint Collector, R.R. District at Saifabad and also subject to furnishing an undertaking to the effect that he shall not alienate the lorry in question during the pendency of the proceedings under Section 6-A of the Act and that he should also produce the same before the first respondent as and when required for the purpose of enquiry. The impugned order dated 25-08-2004 shall stand modified to the said effect. It is made clear that the release of the lorry in question shall be subject to outcome of the proceedings pending before the first respondent under Section 6-A of the Act.

Writ Petition is accordingly disposed of. No costs.

21st September, 2004.

Note; CC by 23/09/2004.

(B/O)

gbs

To

- 1 The Joint Collector, R.R.District at Saifabad, Hyderabad.
- 2 The Mandal Revenue Officer, Ibrahimpatnam, R.R.District.
- 3.2CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).
- 4.2CD copies

^[1] 2002 (6) ALD 585